Sectt. II-27—100,000—21-5-48.

Finance (1948) Department.

(Ms) SERIES.

G.O. No. 397

Dated 22-4-48.

[Despatch Abstract.]

Reforms-----Financial procedure in the draft constitution of India-Papers Recorded.

Finance (Budget-General) Department.

Draft Constitution of India- The States and territories of India specified in Part I of the First Schedule- Prodedure in Financial matters.

The Draft Constitution of India is put up for perusal.

2. The States and the territories of India specified in Part I of the First Schedule (p.485 of the Book put up) correspond to Governor's Provinces in the Government of India Act. 1935. The Chapters and Articles in Part VI of the Draft Constitution relate to the States in Part I of the First Schedule.

3. Articles 177 to 182 relate to the procedure in financial matters. . A statement showing the sections in the present Government of India Act, 1935 on the same subject and the corresponding articles in the draft constitution of India is put up at flag 'B'. It will be seen therefrom that except for certain verbal alterations, the draft does not contemplate any change in the preparation of the "Annual financial Statement" in regard to the procedure to be adopted in the Legislature with respect to estimates, in the matter of authentication of schedule of authorised expenditure and the supplementary statements of expenditure. It may, however, be noted that under the existing Act, the estimates relating to the Salary and allowances of the Governor and other expenditure relating to his office are not open to discussion in the Legislature. This prohibition is not provided for in the draft constitution. A NEW Article in regard to Excess grants has been inserted to follow the recommendation of the Expert Committee on the financial provisions of the constitution. It is already the practice in this Province to present excess demands to the Legislature and to obtain its assent, as provision for this was made in the Legislative Assembly Rules.

4. Expenditure charged on the revenues of the State- A statement showing the list of items of "Charged" expenditure on the revenues of the State according to the New Constitution is put up at flag 'K'. The annexure to G.O. No. 933, Fin., dated 29-11-1947 shows the several items charged on the revenues of the Province under the existing Act. The following are the more important of the changes made in the Draft Constitution:-

(1) the emoluments and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and also of the Chairman and the Deputy Chairman of the Legislative Council have to be treated as "Charged " expenditure. (These items are now treated as "Voted".)

(2) The salaries and allowances of Ministers and of the Advocate-General have to be treated as "Voted" items. (these are now treated as "Charged").

(3) Expenditure connected with the administration of excluded areas (termed as scheduled areas under the new constitution) which is now treated as "Charged" becomes "Votable" under the new Constitution.

(4) In a Civil suit instituted against any Government servant in his official capacity, the whole or any part of the costs incurred and of any damages or costs ordered to be paid by him, as may be decided by the Governor to be defrayed out of the Provincial revenues is now treated as "Charged" expenditure. These charges will have to be treated as "Voted" under the new Constitution.

(5) The definition of "Money Bills" has been made clearer and wider.

These papers may be recorded for future reference.

Abstract

G.O.(M.S.)397. Fin. D 22 4 48

Reforms-financial Procedures in the draft Constitution of India - Papers Recorded.

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Superintendent
Madras Record Office
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Government of India Act, 1935.

Draft Constitution of India.

Procedure in Financial matters

Annual financial Statement:-

78.(1) The Governor shall in respect of every financial year cause to be laid before the Chamber or Chambers of the Legislature a statement of the estimated receipts and expenditure of the Province for that year, in this Part of this Act referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately:-

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the Province; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of the Province;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of each Province:-

(a) the salary and allowances of the Governor and other expenditure relating to his office for which provision is made by or under the Third Schedule to this Act.

(b) debt charges for which the province is liable, including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and the service and redemption of debt;

(c) the salaries and allowances of ministers, and of the Advocate-General;

(d) expenditure in respect of the salaries and allowances of Judges of any High Court.

(e) expenditure connected with the administration of any areas which are for the time being excluded areas;

Annual financial Statement.

177. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodies in the annual financial statement shall show separately:-

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of the states; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of the State;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of each State:-

(a) the emoluments and allowances of the Governor and other expenditure relating to his office;

(b) the emoluments and allowances of the Speaker and the Deputy Speaker ~~and the Legislative Council~~ assembly also of the Chairman and the Deputy Chairman of the Legislative Council

(c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges and other edpenditure relating to the raising of loans and the service and redemption of debt;

(d) expenditure in respect of the salaries and allowances of Judges of any High Court.

assembly and in the case of the State having a legislative council

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Government of India Act, 1935.	Draft Constitution of India.
78. (3)	
(f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal.	177(3) (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal.
(g) any other expenditure declared by this Act or any Act of the Provincial Legislature to be so charged.	(f) any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged.
Procedure in Legislature with respect to estimates:	Procedure in Legislature with respect to estimates:
79. (1) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of a Province shall not be submitted to the vote of the Legislative Assembly, but nothing in this subsection shall be construed as preventing the discussion in the Legislature of those estimates, other than estimates relating to expenditure referred to in paragraph (a) of subsection (3) of the last preceding section.	178. (1) So much of the estimate relates to expenditure charged upon the revenues of a State shall not be submit to the vote of the Legislative Assembly but nothing in this clause shalll be construed as preventhn the discussion in Legislature of those estimates.
(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein.	(2) So much of the said estimate as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly and the Legislative Assembly shall have power to assent or to refuse to assent to a demand, or to assent to any demand subject to a reduction of the amount specified therein.
(3) No demand for a grant shall be made except on the recommendation of the Governor.	(3) No demand for a grant shall be made except on the recommendation of Governor.
Authentication of schedule of expenditure.	Authentication of schedule of expenditure.
80. (1) The Governor shall authenticate by his signature a schdule specifying:	179-(1) The Governor shall authenticate by his signature a schedule specifying
(a) the grants made by the Assembly under the last preceding section.	(a) the grants made by the Assembly under the last preceding article
(b) the several sums required to meet the expenditure charged on the revenues of the Province but not exceeding in the case of any sum the sums shown in the statement previously laid before the Chamber or Chambers.	(b) the several sums required to meet the expenditure charged on the revenues of the State but not exceeding in any case, the sum shown in the statement previously laid before the House or Houses.

(2)The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the Province shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

Supplementary statements of expenditure:-

81. If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the estimated amount of that expenditure and the provisions of the preceding sections shall have effect in relation to the annual financial statement and the expenditure mentioned therein.

~~~ hat statement and that expenditure as they have effect in relation to the ~~~

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(3) Subject to the provisions of the next two succedding articles, no expenditure from the revenues of the State shall be deemed to be duly authorised unless it is secified in the schedule so authenticated.

Supplementary statements of expenditure:-

180. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorized for that year, the Governor shall cause to be laid before the House or Houses a supplementary statement showing the estimated amount of that expenditure and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

Excess grants:-

181. If in any financial year expenditure from the revenues of the State has been incurred on any service for which the vote of the Legislative Assembly is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly and the provisions of articles 178and 179 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant.

~~Special provisions as to~~ financial Bills:-

82. (1) A Bill or amendment making provision:-

(a) for imposing or increasing any tax; or

(b) or regulating the borrowing of money or the giving of any guarantee by the Province, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Province or

Special provisions as to financial Bills:-

182 (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (i) of article 174 of this Constitution shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council.
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(c) for declaring any expenditure charged on the revenues of the Province, or for increasing the amount of any such expenditure.	Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.
Shall not be introduced or moved except on the recommendation of the Governor and a Bill making such provision shall not be introduced in a Legislative Council.	
(2) A bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand and payment of fees for licences or fees for services rendered.	(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand or for the payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission alteration or regulation of any tax by any local authority or body for local purposes.
(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a Province shall not be passed by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill.	(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

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Statement showing the List of items of expenditure "Charged" on the Revenues of the State under the new Draft Constitution.

(1) the pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution exercised jurisdiction within any area included in the States for the time being specified in Parts I and II of the First Schedule (Article 92 (3) (D) (iii) of the Draft Constitution).

(2) the emoluments and allowances of the Governor and other expenditure relating to his office.

(Article 177 (3) (a) of the Draft Constitution).

(3) the emoluments and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly, and in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council.

(Article 177 (3) (b) of the Draft Constitution)

(4) the debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt.

(Article 177 (3) (c) of the Draft Constitution).

(5) the expenditure in respect of the salaries and allowances of judges of any High Court.

(Article 177 (3) (d) of the Draft Consitution).

(6) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal.

(Article 177 (3) (e) of the Draft Constitution).

(7) any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged.

(Article 177 (3) (f) of the Draft Constitution).

(8) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of officers and servants of the Court, and the salaries and allowances of the judges of the court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the Court shall form part of those revenues.

(Article 205 (2) of the Draft Constitution).

(9) Where under the provisions of this Constitution the expenses of any court or Commission, or pensions payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India, are charged on the revenues of India or the revenues of a State for the time being specified in Part I of the First Schedule, then If-----

(a) in the case of a charge on the revenues of India, the court or Commission serves any of the separate needs of a State so specified, or the person has served wholly or in part in connection with the affairs of such a State; or

(b) in the case of a charge on the revenues of a State so specified, the court or Commission serves any of the separate needs of the Union or another State so specified, or the person has served wholly or in part in connexion with the affairs of the Union or another such State,

there shall be charged on and paid out of the revenues of the State or, as the case may be, the revenues of India or of the other State, such contribution in respect of expenses or pensions as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

(Article 267 of the Draft Constitution).

(10) The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members of staff of the Commission, shall be charged on the revenues of India or, as the case may be, the State.

(Article 288 of the Draft Constitution).

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Superintendent,
Madras Record Office.

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